

**Introduced by Senator Lowenthal**

February 21, 2006

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An act to amend Sections 70359 and 70360 of, and to add Section 70326.5 to, the Government Code, relating to courts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1375, as introduced, Lowenthal. Courts: replacement of deficient facilities.

Existing law requires the Judicial Council, in consultation with the superior court of each county and the county to enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. However, neither title to, nor responsibility for, court facilities deemed deficient shall transfer to the state or the Judicial Council, unless provision is made in the agreement for correction of the deficient items.

This bill would require the state to become a party to any public-private partnership agreement entered into by a county that involves a capital lease for the construction of new court facilities to replace deficient court facilities, if the Judicial Council determines that court facilities have deficiencies and that construction of replacement facilities is the most suitable means to correct those deficiencies. The bill would specify applicable procedures and would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 70326.5 is added to the Government
- 2 Code, to read:

70326.5. (a) Notwithstanding Section 70391 or any other law, the state shall become a party to any public-private partnership agreement entered into by a county that involves a capital lease for construction of replacement court facilities, and shall become the lessee under the capital lease and make all rental payments upon completion of the replacement court facilities, if the Judicial Council determines that both of the following apply:

(1) A building and the court facilities in it have deficiencies, as specified in subdivision (b) of Section 70326.

(2) Construction of replacement court facilities is the most suitable means to correct those deficiencies, notwithstanding the priority ascribed to the replacement project for those court facilities on any listing of projects in a capital plan.

(b) The public-private partnership agreement described in subdivision (a) shall be deemed to fulfill the requirement of subdivision (c) of Section 70326 to provide for correction of the deficient items.

(c) The lessor under the capital lease shall cause replacement court facilities to be constructed in accordance with plans and specifications approved by the county and the Judicial Council. The cost of the replacement court facilities, including the cost of the real property, shall be amortized over the term of a long-term lease, at the end of which the state shall own the property. The capital lease arrangement may include transfer of the deficient court facilities to the lessor as part of the consideration under the capital lease, the fair market value of which shall be set off against the cost of construction, and shall include any other terms and conditions as are agreed to by the county and the Judicial Council.

(d) Upon completion of the replacement court facilities, the Judicial Council shall transfer the court operations to the replacement facilities within 15 days. Thereafter, the county shall sell the deficient court facilities at public auction, if not already conveyed under the terms of the public-private partnership agreement, and shall pay the state the proceeds of the sale.

SEC. 2. Section 70359 of the Government Code is amended to read:

70359. (a) Court facilities rental or leasing, except *pursuant to any capital lease under Section 70326.5, and except to the*

1 extent included as a court operation in Rule 810 of the California  
2 Rules of Court, shall be included in the county facilities payment  
3 using as the initial amount the annual amount for the lease for the  
4 fiscal year of the date of transfer of those court facilities to the  
5 state.

6 (b) The amount computed under subdivision (a) shall be  
7 adjusted annually for each remaining year in the lease to reflect  
8 the changed annualized amount for the lease for each year  
9 remaining on the lease. A lease amount in the final year of any  
10 lease entered into or renewed on or after October 2, 2001, shall  
11 represent a good faith relationship to the fair market value of the  
12 facilities either at the time of the making of the lease or the time  
13 of determination of the final year lease amount.

14 (c) The adjustment of the amount pursuant to subdivision (b)  
15 shall not permit either the county or the Judicial Council to  
16 appeal the county facilities payment amount under Section 70366  
17 or 70367, except as to any issues directly related to the  
18 adjustment made by subdivision (b).

19 (d) The amount of any lease included in the county facilities  
20 payment amount shall, unless otherwise agreed to by the  
21 Administrative Director of the Courts and the county, be paid by  
22 the county from the county's courthouse construction fund, if the  
23 lease was originally entered into prior to July 1, 2002, and to the  
24 extent the lease was funded in whole or in part by the courthouse  
25 construction fund prior to July 1, 2002. The length of time  
26 payment that may be made from the courthouse construction  
27 fund is to be calculated by the length of the lease entered into  
28 before July 1, 2002, plus any one renewal or extension of not  
29 more than five years entered into on or after July 2, 2002. The  
30 Administrative Director of the Courts may agree to a longer time  
31 for payment from the courthouse construction fund.

32 SEC. 3. Section 70360 of the Government Code is amended  
33 to read:

34 70360. Calculation of the county facilities payment may not  
35 include any of the following:

36 (a) Purchase of land and buildings.

37 (b) Construction and construction services, *including any*  
38 *capital lease payments incurred pursuant to Section 70326.5.*

- 1 (c) Maintenance of parking for the general public whose
- 2 responsibility is not transferred and that may also be used by the
- 3 courts or jurors.
- 4 (d) Depreciation of court facilities.
- 5 (e) Costs associated with court facilities or a portion of the
- 6 facilities that is not transferred to the state or that remains a
- 7 county responsibility.
- 8 (f) A capital project that alters the facilities' function or
- 9 capacity.
- 10 (g) Any county payments resulting from bonded indebtedness
- 11 and not normally a cost of building operation.
- 12 (h) A special improvement.